

Nurse Aide

Regulations & Requirements

July 18, 2023



Authority

Federal Regulations:

- [Nurse Aide Federal Rules & Regulations Part 483](#)
- [Nurse Aide Federal Rules & Regulations Part 488](#)
- [42 USC 1395i-3](#)

State Regulations:

- [Public Health Code Part 219](#)
- [Nurse Aide Administrative Rules](#)

The Department of Licensing and Regulatory Affairs offer the following resources:

- [Community and Health Systems \(michigan.gov\)](#)
- [Nurse Aide Registry \(michigan.gov\)](#)

Note: Aides are required to follow state and facility policies. Federal policies only apply to those only working in long term care facilities.

Definitions

- Nurse Aide: Individual who holds a certificate to be a nurse aid who has completed all of the steps of registration and is ready to provide nursing or nursing related services to a patient or resident.
- Department: Department of Licensing and Regulatory Affairs
- Competency Exam: Skills and written portion of nurse aide final evaluation.
- Nurse Aide Training Program: State approved training program that provides a nurse aide with 75 total hours of teaching with a state approved nurse aide trainer.

Definitions

- Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm, pain, or mental anguish. Includes the deprivation of goods or services that are necessary to attain or maintain physical, mental and psychological well-being. Includes verbal abuse, sexual abuse, physical abuse, and mental abuse.
 - Willful means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.
- Neglect is the failure of the nurse aide to provide goods and services to a patient that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.
 - Failure is the omission of required goods and services or the failure to provide goods and services as required in a patient's care documents.

Definitions Cont.

- Misappropriation of property is the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a patient's belongings or money without the resident's consent.
- A complaint is an allegation that a person or program has violated the act or administrative rules.

[Nurse Aide Administrative Rules Part 1, 400.301](#)

Nurse Aide Initial Requirements

Requirements to become a nurse aide:

- Apply in the MI-NATES system
- Successful completion of a state approved nurse aide training program
- Successful completion of a nurse aide competency exam approved by the State of Michigan
- Initial registration fee of \$20

[Public Health Code Part 219, 333.21911](#)

Applicants from other States (Reciprocity)

- If the applicant has already passed a training program in another state, they may be eligible to apply for the competency exam in Michigan. The other state training program must be equivalent or exceeds the Michigan training program.

OR

- If the applicant has already passed their competency exam in another state, they may be eligible to transfer their certification as long as the training program and competency test are approved by the department and the certification is in good standing.

[Public Health Code Part 219, 333.21913](#)

Nurse Aide Competency Evaluation and Certification

- Competency exam can be done in person or remotely
- Applicants can take the test three times before they are required to do another training program and try after that
- The test must be done within 24 months of the applicant finishing the training program
- A nurse aide that is certified is only certified here in Michigan. Certificates are not transferrable
- Certification is valid for two years

[Nurse Aide Administrative Rules Part 2, Subpart C](#)

Nurse Aide Renewal Requirements

Requirements for nurse aide renewal:

- Worked a minimum of 40 hours within the two year certification period
- 12 hours of continuing education per year totaling 24 hours for the renewal period
- The department has the authority to require additional information and documentation to verify information within the rule including , but not limited to, proof of employment and continuing education

[Nurse Aide Administrative Rules Part 2, Subpart C](#)

Nurse Aide Requirements

Requirements for nurse aides:

- Practice only with a valid certification
- Provide nursing related services and other delegated duties according to facility policies and administrative code
- Provide nursing related services free from abuse, neglect, or misappropriation of property
- Cooperate with the department in an investigation

Nurse Aide Administrative Rules Part 2, Subpart C



Common Non-compliance Cited

- Not following directives and orders as delegated.
- Failure to use universal precautions and transmission-based precautions when required.
- Failure to properly transfer resident including bed mobility.
- Failure to follow care plan.
- Failure to provide perineal care.

These things can fall under abuse and neglect.

Filing a Complaint

Any individual or entity may file a complaint against a certified nurse aide for violation of abuse, neglect, or misappropriation of patient property.

A complaint filed with the department must be filed within 12 months after the alleged violation. If it is filed after 12 months the department may still investigate if the complaint shows good cause for the delay in filing.

A complaint must be submitted in writing to the department.

The complaint must be limited to the matters involving an alleged violation of the act or rules.

Filing a Complaint Cont.

A complaint may be filed anonymously.

The department shall send a letter of acknowledgement to each complainant upon evaluation of the complaint, except with submitted anonymously.

A complaint must provide enough information to identify the specific nurse aide and the applicable facility.

[Nurse Aide Administration Rules Part 5, Subpart A](#)

Investigating a Complaint

The department shall receive, evaluate, and, if warranted, investigate a complaint of resident abuse, neglect, misappropriation of resident property or any other violation.

An investigation may include the following:

- Interviews with the staff, patients, and other relevant persons with their consent.
- Inspection of relevant administrative records, other documents, and media maintained by the health facility.
The department may request copies of any of these records.

The department shall provide the complainant with its written findings within 60 days after completion of the investigation.

[Nurse Aide Administration Rules Part 5, Subpart A](#)

Enforcement

If the department determines that the nurse aide is not in compliance with the terms of their certificate or is in violation of the act or these rules, they may do one or more of the following:

- Permanently revoke the certificate of the nurse aide found to have abused a patient
- Permanently revoke the certificate of a nurse aide found to have misappropriated the property of patient
- Revoke the certificate of a nurse aide found to have neglected a patient unless the nurse aide demonstrates that the neglect was caused by factors beyond their control.
- Issue a summary suspension of certificate.
- Revoke or suspend the certificate or permit. Revocation may be permanent or limited to one to three years based on the violation type.
- Limit or modify certification.
- Require probation, re-training, or continuing education.
- Issue a written reprimand.

Enforcement Cont.

The department has the authority to end the enforcement of the revocation after one year if the following conditions are met:

- The employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect.
- The neglect involved in the original finding was a singular occurrence.

[Nurse Aide Administrative Rules Part 6, Subpart A](#)

Disciplinary Action: Notice of Intent

The department shall provide the certified nurse aide with written notice before revoking, suspending, limiting or modifying a certification. The written notice shall include:

- Nature of allegations
- Approximate date and time of allegations
- The right to request an administrative hearing to contest the allegations
- The department intent to revoke, suspend, limit, or modify, a certificate or permit
- Notice that if the certified nurse aide does request an administrative hearing within 30 days, the department will enforce the sanction indicated in written notice

Disciplinary Action: Notice of Intent Cont.

The department shall issue a written notice within 10 days of completion of the investigation.

In addition to the written request for an administrative hearing, the nurse aide may submit a written statement disputing the allegations.

[Nurse Aide Administrative Rules Part 6, Subpart B, 400.353](#)

Disciplinary Actions

The department may issue a summary suspension if the department feels the allegation is serious enough.

- A post-suspension hearing must be scheduled promptly to determine if the suspension is warranted.

The department or hearing officer may issue a subpoena to do any of the following:

- Bring in a witness to testify at an administrative hearing
- Produce documents relevant to the hearing

[Nurse Aide Administrative Rules Part 6, Subpart B, 400.354, 400.356](#)

Authority

A nurse aide must comply with local, state, and federal laws, rules, and regulations

During review or application of the nurse aide, the department may use or request information or documentation of noncompliance from local, state, and federal authorities.

The department may cite if local, state, or federal rule, regulation, or standard is found non-compliant, in writing, and there is a need to protect the health and wellness of those receiving care from the nurse aide.

Example: background check, MIOSHA requirements

Nurse Aide Administrative Rules Part 1, 400.303



Questions and Answers